

REMARKS

Claims 1-5 and 8-10 are currently pending in this application. The Examiner has rejected Claims 1-5 and 8-10 under 35 U.S.C. §103(a) as being unpatentable over the Applicant's Admitted Prior Art (AAPA) in view of Schroderus et. al (WO 99/62283), and further in view of Hoogerwerf et al. (U.S. Patent 5,819,171).

Please add new independent Claim 11. Please amend Claims 1, 3, 4 and 8-10 as set forth herein. No new matter has been added.

Initially, the Examiner states on page 4 of the Office Action that the "if" in the determining step of the claims lends itself to a condition that might not actually happen. This is an incorrect assumption on the part of the Examiner since it is the determination that actually takes place, and the determination step is a definite occurrence.

As a second initial matter, although the Request for Continued Examination (RCE) included a request for the Examiner to consider the arguments contained in the Response filed January 19, 2006, it is clear from the Office Action that the Examiner did not address these arguments. Applicants respectfully represent the arguments contained in the January Response in the present Response, and maintain that a next Office Action, if issued, must be non-final.

With regard to the rejection of independent Claims 1, 5, 8, and 10 the Examiner asserts that the AAPA teaches all the recitations of these claims, except for assigning to the mobile station a traffic channel by the searched base station using a physical channel used for data transmission, which the Examiner asserts is taught in Schroderus et al., and determining if a recovered traffic channel and the assigned traffic channel are available, which the Examiner asserts is taught by Hoogerwerf et al. However, we believe the Examiner is incorrect.

Each of independent Claims 1, 5, 8, and 10 recites resuming the call on the traffic channel that is first available between one of a recovered traffic channel and the assigned traffic channel. As indicated above, the Examiner asserts that this feature is taught in the AAPA (page

4, lines 10-11). However, the AAPA reads “[t]hen, the mobile station is assigned to a traffic channel by the new base station and recovers the dropped call in step 217.” Neither this section nor any other section of the AAPA teaches resuming the call on *the traffic channel that is first available between one of a recovered traffic channel and the assigned traffic channel*. That is, the AAPA makes no teaching of determining which of the channels is first available, which is now specifically recited in the claims.

Further, the AAPA specifically recites the following on page 4, lines 16-19:

If the mobile station receives a signal of good quality from the old base station, it fails to perceive the successful receipt of the signal. This implies that despite probable resumption of the call with existing resources, repetition of the traffic channel assigning procedure delays the recovery of the dropped call.

More specifically, the above cited section points out that the AAPA connects to the assigned traffic channel, regardless of whether the recovered traffic channel is available. Additionally, this deficiency is not cured by Schroderus. Therefore, the Examiner is incorrect in rejecting independent Claims 1, 5, 8, and 10, as neither the AAPA nor Schroderus teach resuming the call on the traffic channel that is first available between one of a recovered traffic channel and the assigned traffic channel.

Unfortunately, however, rather than again bothering to consider the two full pages of arguments directed to the fact that neither the Examiner’s cited sections “nor any other section of the AAPA teaches resuming the call on *the traffic channel that is first available between one of a recovered traffic channel and the assigned traffic channel*” (See page 5, lines 4-7 of the January Response), the Examiner cited page 4, line 10-11, as allegedly teaching this recitation. However, this cited section merely recites, “Then, the mobile station is assigned to a traffic channel by the new base station and recovers the dropped call in step 217.”

We can see no possible way that the Examiner can make a good faith argument that the section of the AAPA cited above reads on “resuming the call on *the traffic channel that is first*

available between one of a recovered traffic channel and the assigned traffic channel" as is recited in independent Claims 1, 5, 8, and 10.

Based on at least the foregoing, withdrawal of the rejection of independent Claims 1, 5, 8, and 10 is respectfully requested.

The Examiner states that Hoogerwerf et al. teaches determining if a recovered traffic channel and the assigned traffic channel are available. It is respectfully submitted that the Examiner is incorrect. Col. 7, lines 51-62 of Hoogerwerf et al. merely states that a mobile unit that arrives at a new voice channel and does not see an SAT of an RF signal will reconnect to an old voice channel; therefore, only a determination as to the recognition of a signal on one channel, the new voice channel, is made by Hoogerwerf et al.

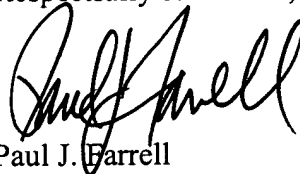
With reference to col. 7, lines 51-62 and col. 8, lines 6-16 of Hoogerwerf et al., a mobile unit re-tunes to a newly assigned voice channel after confirming receipt of a data message as a hand-off message is received. And further, Hoogerwerf et al. recites preventing the mobile unit from re-tuning back to an old voice channel and re-establishing a conversation without re-tuning to a new voice channel.

That is to say, Hoogerwerf et al. merely states that a mobile unit that arrives at a new voice channel and does not see an SAT of an RF signal will reconnect to an old voice channel, but fails to recite resuming a call on a traffic channel that is available earlier between a recovered traffic channel and an assigned traffic channel.

Independent Claims 1, 5, 8 and 10 are believed to be in condition for allowance. Without conceding the patentability per se of dependent Claims 2-4 and 9, these are likewise believed to be allowable by virtue of their dependence on their respective amended independent claims. Accordingly, reconsideration and withdrawal of the rejections of dependent Claims 2-4 and 9 is respectfully requested.

Accordingly, all of the claims pending in the Application, namely, Claims 1-5 and 8-10 are believed to be in condition for allowance. Should the Examiner believe that a telephone conference or personal interview would facilitate resolution of any remaining matters, the Examiner may contact Applicant's attorney at the number given below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Paul J. Farrell", written in a cursive style.

Paul J. Farrell

Reg. No. 33,494

Attorney for Applicant(s)

DILWORTH & BARRESE, LLP
333 Earle Ovington Blvd
Uniondale, New York 11553
Tel. (516) 228-8484

PJF/MJM/dr